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UNITED STATES DEPARTMENT OF EDUCATION

THE DEPUTY SECRETARY

May 29, 2002

Honorable Sila M. Calderon
Governor
Commonwealth of Puerto Rico
P.O. Box 9020082
San Juan, Puerto Rico 00902-0082

FCC Secretary: Please
file under CC Docket No. 02-6
Pursuant to DA 03-1731,
a PN released on May 16, 2003

Dear Governor Calderon:

I am following up on Secretary Paige's letter to you regarding serious deficiencies in the Puerto Rico Department of Education's (PRDE's) administration of various programs funded by the U.S. Department of Education (ED). I am sending a similar letter to Secretary of Education Cesar Reyes-Hernandez.

As you know, recent events involving the use of Federal education funds by former senior officials of the PRDE, including the former Puerto Rico Secretary of Education and vendors with whom PRDE has had dealings, and various other fiscal and programmatic accountability problems concerning PRDE have caused us great concern. Major deficiencies in PRDE's administration of the largest grant program, Title I of the Elementary and Secondary Education Act, have been confirmed by audits and other reviews made by this Department's Office of Inspector General. Numerous and repeated deficiencies in PRDE's administration of a number of Federal education programs have also been found in the single audits of PRDE conducted by independent auditors. Additionally, the inability of PRDE to provide us with timely single audits has exacerbated greatly these accountability problems.

Although I appreciate the sentiments you expressed and the assurances provided in your letter to the Secretary of January 24, 2002 (that PRDE is taking these problems seriously and is addressing them), we need more detailed information about the particular steps taken or soon to be taken by your government, including PRDE, to address these problems. This is necessary in order for us to carry out our mutual administrative responsibilities to ensure the proper use of Federal education funds in Puerto Rico. While I understand that some of the problems noted may have been inherited from previous Administrations, the recent developments noted above have made it imperative that we take immediate steps to ensure that PRDE has appropriate controls in place to ensure the proper use of all Federal education grant funds it receives. A discussion of some of the most serious outstanding problems follows.

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Late and Overdue Audits

All of the problems concerning fiscal and programmatic accountability have been aggravated by the lack of timely single audits. As you may know, for many years, PRDE has failed to submit timely and sufficient single audits under the Single Audit Act. Audits of fiscal years beginning after June 30, 1998 are required by law to be submitted within nine months after the annual period being audited. For earlier years, they were due thirteen months after the end of the audited period. Various commitments made by Puerto Rico officials over the years to submit timely audits have not been met. For example, the most recent single audit of PRDE that we received was for fiscal year (FY) 1999; this was received by the Single Audit Clearinghouse on September 28, 2001; it was about 18 months overdue. Before that, the audit for FY 1998 was submitted on March 20, 2001; it was about 20 months overdue. The audit for FY 1997 was submitted on April 28, 2000, about 21 months late. This situation was virtually the same for audits in previous years. The audit for FY 2000 is already more than a year overdue; the audit for fiscal year 2001 is already overdue, and we understand that work on it has just begun. The requirement for timely audits is a fundamental requirement to ensure proper accountability; the submission of late audits cannot be allowed to continue.

Serious Fiscal Accountability and Programmatic Problems

The findings in the single audits of PRDE, as well as recent audit work done by the Department's Office of Inspector General, make clear that large-scale fiscal accountability and programmatic problems have existed for a number of years and appear to be continuing. Findings show that serious deficiencies exist in many key aspects of procurement, program planning and implementation, and financial and property management. Poor record keeping, contracts issued in a manner that is inconsistent with applicable local regulations and Federal requirements and without proper controls, lack of timely payments to vendors, late obligations and liquidations, Federal funds spent on unallowable activities, and the lack of proper or timely fiscal reconciliations permeate the expenditure of Federal education funds by PRDE. These findings in the audits detail a clear and persistent pattern of problems within PRDE's administration of Federal education programs in numerous areas. Among other things, there is a need for proper planning, implementation, procurement, evaluation, administration, delivery of program services, and timely accountability. All of these significant problems hamper PRDE's ability to provide appropriate education services to its students with Federal education funds. These serious problems cannot be allowed to continue, because it is ultimately the students who suffer.

In communications with this Department, you and representatives of PRDE have pledged to eliminate problems in the administration of Federal grants and have begun to describe some of the steps you have taken. We look forward to your cooperation in expanding the PRDE's commitment to fundamental changes in every aspect of PRDE programs funded by the Department. Significant changes must be initiated in the many areas outlined in this letter.

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Based on these problems, which are exacerbated by the lack of timely single audits and the serious accountability problems it causes, as of the date of this letter, we are designating PRDE a "high-risk grantee" under 34 C.F.R. 80.12, making the agency subject to special conditions in all of the Federal education programs that it administers. The special conditions placed on PRDE's grant could include such additional requirements as filing special reports, paying out the grant funds on a reimbursement basis, and the establishment of an independent third party agent to manage and administer part or all of the grant funds. Additionally, some funding may be suspended, terminated, or withheld in accordance with our enforcement authority, and other appropriate remedies may be considered. However, for a short period of time I am deferring attaching specific special conditions and taking other enforcement actions in order to give the government of Puerto Rico, including PRDE, a chance to address our concerns. I will determine what special conditions are appropriate and whether additional enforcement action should be taken based on the responses submitted by Puerto Rico, including PRDE, to the requests for information below. While I remain hopeful that your government, including PRDE, will demonstrate the appropriate commitment and initiative to improve the management of PRDE, so that some or all of these remedies will not be necessary, I am alarmed by the seriousness and lengthy history of the problems found in Puerto Rico.

To allow us to determine what special conditions should be imposed, and what other remedies should be taken, please submit on a timely basis (so that I will receive within thirty (30) days of the date of this letter) the following:

A Corrective Action Plan detailing:

- () Your government's plan for expedited submission of audits by PRDE for FYs 2000 and 2001, and the timely submission of audits for FY 2002 and all future years;
- () Your government's plan to improve PRDE's procurement process to ensure the timely award of contracts and the fair and unbiased adherence to appropriate rules for ensuring competitive bidding, fair prices, and the proper implementation of procurement actions.
- () Your government's means of addressing other key problems mentioned above or in the single audits and the audits conducted by our OIG.

With regard to the last two items, audits have noted long-standing and serious problems in PRDE's procurement process, and in many aspects of grant planning, implementation, and accountability. These problems make it difficult to ensure that eligible recipients receive appropriate services on a timely basis and that accurate and reliable record keeping systems are maintained. There is an evident need for a prompt and thorough overhaul of many aspects of PRDE's grant administration. The deficiencies that our auditors have noted include an absence of internal controls in PRDE's procurement system, a need for the development of specifications to process contract awards and for proper review of vouchers for goods and services; a need for better program planning and implementation; and the need to develop and implement better fiscal controls, and a reliable system of keeping records. It is essential that these items be

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seen as high priorities as PRDE attempts to reestablish integrity and efficiency in its management of Federal grant funds, so that all requirements are met and so that proper education services are provided to the proper beneficiaries. We would expect corrective actions to address, at a minimum, these areas. In addition, we invite PRDE officials to review the audit findings and the other problems mentioned in this letter and advise me of the other corrective actions being taken that will help address our concerns and minimize the risks of our grant funds being improperly administered.

The information I have requested is essential to our responsible oversight of PRDE's grants and to maintaining PRDE's future eligibility for such grants. I request that the Puerto Rico government reply thoroughly and by the deadline indicated above with the information requested. The corrective action plan should include a schedule of when each of the corrective actions will be implemented. We expect that PRDE's implementation of the corrective actions will begin immediately and that all of the actions will be fully implemented by the end of this calendar year. I also ask that the Puerto Rico government examine whether similar problems exist with other Puerto Rico agencies that administer grant funds received from our Department. If they do, please report on corrective actions to be taken with regard to those agencies.

In addition to the information we have requested in this letter, in the near future, my staff will also be requesting PRDE to provide specific information that we need for timely resolution of audit findings that are outstanding. We trust that you and the Secretary of Education will ensure that we have the full cooperation of PRDE in ensuring prompt, complete, and accurate responses necessary for audit resolution.

My hope is that PRDE will demonstrate significant progress in implementing necessary changes and improvements, so that my Department will not have to take the more prescriptive measures outlined in this letter that it has available to protect Federal grant funds. My staff stands ready to answer questions and provide technical assistance on the applicable Federal requirements in the programs affected and on more general grant fund accountability, but it will take a genuine commitment by your government, and by PRDE in particular, to complete the needed corrective actions in a timely manner.

I remain hopeful that your government will address our concerns. I have designated Phil Maestri of our Office of Chief Financial Officer to be the designated contact for questions and requests for assistance from your office and PRDE. He can be reached at (202) 205-3511. We look forward to working with you and others in your government to improve the delivery of Federal education services so that no child in Puerto Rico is left behind.

Sincerely,


William D. Hansen

cc: Secretary of Education Cesar Rey-Hernandez
Representative Anibal Acevedo Vilá

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UNITED STATES DEPARTMENT OF EDUCATION

THE DEPUTY SECRETARY

May 29, 2002

Dr. Cesar A. Rey-Hernandez
Secretary of Education
Puerto Rico Department of Education
Post Office Box 190759
San Juan, Puerto Rico 00919-0759

Dear Secretary Rey-Hernandez:

I am following up on Secretary Rod Paige's letter to the Governor regarding serious deficiencies in the Puerto Rico Department of Education's (PRDE's) administration of various programs funded by the U.S. Department of Education (ED). I am sending a similar letter to Governor Calderon.

As you know, recent events involving the use of Federal education funds by former senior officials of the PRDE, including the former Puerto Rico Secretary of Education and vendors with whom PRDE has had dealings, and various other fiscal and programmatic accountability problems concerning PRDE have caused us great concern. Major deficiencies in PRDE's administration of the largest grant program, Title I of the Elementary and Secondary Education Act, have been confirmed by audits and other reviews made by this Department's Office of Inspector General. Numerous and repeated deficiencies in PRDE's administration of a number of Federal education programs have also been found in the single audits of PRDE conducted by independent auditors. Additionally, the inability of PRDE to provide us with timely single audits has exacerbated greatly these accountability problems.

Although I appreciate the sentiments the Governor expressed and the assurances provided in his letter to the Secretary of January 24, 2002 (that PRDE is taking these problems seriously and is addressing them), we need more detailed information about the particular steps taken or soon to be taken by the Puerto Rico government, including PRDE, to address these problems. This is necessary in order for us to carry out our mutual administrative responsibilities to ensure the proper use of Federal education funds in Puerto Rico. While I understand that some of the problems noted may have been inherited from previous Administrations, the recent developments noted above have made it imperative that we take immediate steps to ensure that PRDE has appropriate controls in place to ensure the proper use of all Federal education grant funds it receives. A discussion of some of the most serious outstanding problems follows.

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In communications with this Department, the Governor and representatives of PRDE have pledged to eliminate problems in the administration of Federal grants and have begun to describe some of the steps you have taken. We look forward to your cooperation in expanding the PRDE's commitment to fundamental changes in every aspect of PRDE programs funded by the Department. Significant changes must be initiated in the many areas outlined in this letter.

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Sincerely,


William D. Hansen

cc: Governor Sila M. Calderon
Representative Amibal Acevedo Vila